

Docket No. 22-35604

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: JOHN FELIX CASTLEMAN, SR.,
KIMBERLY KAY CASTLEMAN,
Debtors.

JOHN FELIX CASTLEMAN, SR.,
KIMBERLY KAY CASTLEMAN,

Appellants

— v. —

DENNIS LEE BURMAN, Chapter 7 Trustee,

Appellee

On Appeal from a Decision of the United States
District Court for the Western District of Washington
No. 2:21-cv-00829-JHC, Honorable John H. Chun

**MOTION OF NATIONAL ASSOCIATION OF BANKRUPTCY
TRUSTEES FOR LEAVE TO FILE AMICUS BRIEF
IN SUPPORT OF APPELLEE**

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Now comes the National Association of Bankruptcy Trustees (“NABT”) and respectfully requests that it be granted leave to file an *amicus* brief in support of the Appellee Dennis Lee Burman, Trustee, pursuant to Ninth Circuit Rule 29(a)(2). In support of this request, NABT respectfully states as follows:

The National Association of Bankruptcy Trustees is a nonprofit association formed in 1982 to address the needs of chapter 7 bankruptcy trustees throughout the country and to promote the effectiveness of the bankruptcy system as a whole. Since then, the focus of the organization has expanded to include Chapter 11 and Subchapter V trustees. NABT continues to promote the effectiveness of the bankruptcy system as a whole. Membership in NABT is open to chapter 7 and subchapter V trustees and their staff, judges, employees of the Office of the U.S. Trustee, and associated professionals and businesses. Appellee is an NABT member.

NABT files *amicus curiae* briefs throughout the country on matters of national importance to bankruptcy trustees and the efficient administration of bankruptcy cases.

This appeal concerns what happens when debtors initially seek protection under Chapter 13 of the Bankruptcy Code, and later convert their case to a Chapter 7 liquidation. Specifically, the issue is whether the post-petition appreciation of the Appellants' residence belongs to the bankruptcy estate or to the debtors. As set forth in the briefs of the parties, there is a split of authority on this issue in courts across the nation. This Court's decision will bear significantly upon the ability of the NABT's members to recover the value of non-exempt equity in debtors' assets that may have appreciated while the debtors were in Chapter 13.

This Court's decision in this evolving area of law is likely to have national significance for courts and for NABT's members, especially in the current environment, in which real estate values have skyrocketed.

NABT submits that it has an interest in the issues at the crux of this appeal that warrants consideration of its position as *amicus curiae*.

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Undersigned counsel, through his associated counsel, Steven Weiss, has communicated with the parties to this appeal. Counsel for the Appellee has consented to NABT's request; counsel for the Appellants has not consented.

Respectfully submitted, this the 9th day of January, 2023.

By: /s/ Russell D. Garrett

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CERTIFICATE OF SERVICE

I certify that on January 9, 2023, the foregoing document was served on all parties or their counsel of record through the CM/ECF system:

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